



# House of Representatives

## File No. 1007

General Assembly

January Session, 2009

**(Reprint of File Nos. 769 and 974)**

Substitute House Bill No. 6664  
As Amended by House Amendment  
Schedule "A"

Approved by the Legislative Commissioner  
May 28, 2009

### **AN ACT CONCERNING REVISIONS TO VARIOUS STATUTES CONCERNING THE CRIMINAL JUSTICE SYSTEM.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1      Section 1. (NEW) (*Effective July 1, 2009*) (a) Within available  
2      appropriations, juvenile prosecutors employed by the Division of  
3      Criminal Justice on the effective date of this section shall be deemed to  
4      have been appointed by the Criminal Justice Commission in  
5      accordance with section 51-278 of the general statutes and shall have  
6      and exercise all the powers and perform all the duties of an assistant  
7      state's attorney and have the same jurisdiction as an assistant state's  
8      attorney as provided in section 51-281 of the general statutes.

9      (b) Within available appropriations, on and after the effective date  
10     of this section, any prosecutorial official assigned to handle juvenile  
11     matters in the criminal session of the Superior Court shall have been  
12     appointed by the Criminal Justice Commission in accordance with  
13     section 51-278 of the general statutes.

14     Sec. 2. Subsection (b) of section 46b-127 of the general statutes is

15 repealed and the following is substituted in lieu thereof (*Effective July*  
16 *1, 2009*):

17 (b) Upon motion of a [juvenile prosecutor] prosecutorial official and  
18 order of the court, the case of any child charged with the commission  
19 of a class C or D felony or an unclassified felony shall be transferred  
20 from the docket for juvenile matters to the regular criminal docket of  
21 the Superior Court, provided such offense was committed after such  
22 child attained the age of fourteen years and the court finds ex parte  
23 that there is probable cause to believe the child has committed the act  
24 for which he is charged. The file of any case so transferred shall remain  
25 sealed until such time as the court sitting for the regular criminal  
26 docket accepts such transfer. The court sitting for the regular criminal  
27 docket may return any such case to the docket for juvenile matters not  
28 later than ten working days after the date of the transfer for  
29 proceedings in accordance with the provisions of this chapter. The  
30 child shall be arraigned in the regular criminal docket of the Superior  
31 Court by the next court date following such transfer, provided any  
32 proceedings held prior to the finalization of such transfer shall be  
33 private and shall be conducted in such parts of the courthouse or the  
34 building wherein court is located as shall be separate and apart from  
35 the other parts of the court which are then being held for proceedings  
36 pertaining to adults charged with crimes.

37 Sec. 3. Section 46b-133a of the general statutes is repealed and the  
38 following is substituted in lieu thereof (*Effective July 1, 2009*):

39 (a) A nolle prosequi may not be entered as to any count of  
40 delinquency if the juvenile objects to the nolle prosequi and demands  
41 either a trial or dismissal, except with respect to prosecutions in which  
42 a nolle prosequi is entered upon a representation to the court by the  
43 [juvenile prosecutor] prosecutorial official that a material witness has  
44 died, disappeared or become disabled or that material evidence has  
45 disappeared or has been destroyed and that a further investigation is  
46 therefore necessary.

47 (b) Whenever a nolle prosequi has been entered as to any count of  
48 delinquency, or whenever any count of delinquency has been  
49 dismissed without prejudice, if at least thirteen months have elapsed  
50 since such nolle or dismissal without prejudice, all police and court  
51 records pertaining to such count shall be erased. Whenever any such  
52 count has been continued at the request of the [juvenile prosecutor]  
53 prosecutorial official and a period of thirteen months has elapsed since  
54 the granting of such continuance during which period there has been  
55 no prosecution or other disposition of the matter, the count shall be  
56 construed to have been nolle as of the date of termination of such  
57 thirteen-month period and such erasure may thereafter be effected as  
58 provided in this subsection for nolle cases.

59 Sec. 4. Section 46b-133b of the general statutes is repealed and the  
60 following is substituted in lieu thereof (*Effective July 1, 2009*):

61 (a) The court, on motion of a child charged with a delinquency  
62 offense, but not yet convicted, may order that such child be examined  
63 to determine whether the child is alcohol-dependent or drug-  
64 dependent as defined in section 46b-120. Such motion shall be filed  
65 with the court within ten days after a plea is entered, except if waived  
66 by the court or pursuant to an agreement by the parties. The results of  
67 any examination ordered pursuant to this subsection shall be utilized  
68 only for the purposes of determining whether the delinquency  
69 proceeding should be suspended under this section.

70 (b) The court, upon motion of the child charged with a delinquency  
71 offense but not yet convicted, may order the suspension of the  
72 delinquency proceedings for a period of up to one year, order periodic  
73 alcohol and drug testing of such child during the period of suspension  
74 and order treatment for alcohol or drug dependency if the court, after  
75 consideration of information before it concerning the alcohol or drug  
76 dependency of the child, finds that (1) the child is alcohol-dependent  
77 or drug-dependent as defined in section 46b-120, (2) the child  
78 presently needs and is likely to benefit from treatment for the  
79 dependency and (3) the suspension of the delinquency proceedings

80 will advance the interests of justice. During the period of suspension, a  
81 child shall be placed under the supervision of a juvenile probation  
82 officer for treatment for alcohol or drug dependency and such officer  
83 shall monitor the compliance of the child with the orders of the court.

84 (c) If the court denies the motion for suspension of the delinquency  
85 proceedings, the [juvenile prosecutor] prosecutorial official may  
86 proceed with the delinquency proceedings. Any order of the court  
87 granting or denying a motion for suspension of the delinquency  
88 proceedings shall not be deemed a final order for purposes of appeal.

89 (d) At any time before the end of the period of the suspension of the  
90 delinquency proceedings, but not later than one month before the end  
91 of the period of suspension, a juvenile probation officer shall notify the  
92 court of the impending conclusion of the suspension and submit a  
93 report on whether the child has completed the treatment program and  
94 has complied with all other conditions of the suspension order  
95 imposed by the court.

96 (e) If the court, on motion of the child or on its own motion, finds  
97 that the child has completed the treatment program and has complied  
98 with all other conditions of suspension, it may dismiss the charge for  
99 which the delinquency proceedings had been suspended. If the court  
100 denies the motion and terminates the suspension of the delinquency  
101 proceedings, the [juvenile prosecutor] prosecutorial official may  
102 proceed with such proceedings.

103 (f) The provisions of this section shall not apply to any child  
104 charged with a serious juvenile offense as defined in section 46b-120 or  
105 any child who was previously ordered treated under this section.

106 Sec. 5. Subsections (a) and (b) of section 46b-133c of the general  
107 statutes are repealed and the following is substituted in lieu thereof  
108 (*Effective July 1, 2009*):

109 (a) Whenever a child is referred for the commission of a felony  
110 committed after such child attained the age of fourteen years and such

111 child is a serious juvenile repeat offender, as defined in section 46b-  
112 120, the [juvenile prosecutor] prosecutorial official may request the  
113 court to designate the proceeding as a serious juvenile repeat offender  
114 prosecution.

115 (b) If a [juvenile prosecutor] prosecutorial official requests that a  
116 proceeding be designated a serious juvenile repeat offender  
117 prosecution, the court shall hold a hearing not later than thirty days  
118 after the filing of such request unless good cause is shown by the  
119 [juvenile prosecutor] prosecutorial official or by the child as to why the  
120 hearing should not be held within such period. If good cause is shown,  
121 the hearing shall be held not later than ninety days after the filing of  
122 such request. The court shall decide whether to designate the  
123 proceeding as a serious juvenile repeat offender prosecution not later  
124 than thirty days after the completion of such hearing. The court shall  
125 grant the request to designate the proceeding as a serious juvenile  
126 repeat offender prosecution if the [juvenile prosecutor] prosecutorial  
127 official shows by clear and convincing evidence that such designation  
128 will serve the public safety. The decision to designate the proceeding  
129 as a serious juvenile repeat offender prosecution shall not be a final  
130 judgment for purposes of appeal.

131 Sec. 6. Subsections (b) and (c) of section 46b-133d of the general  
132 statutes are repealed and the following is substituted in lieu thereof  
133 (*Effective July 1, 2009*):

134 (b) Whenever a child is referred for the commission of any crime of  
135 a sexual nature, and such case is not transferred to the regular criminal  
136 docket pursuant to section 46b-127, as amended by this act, the  
137 [juvenile prosecutor] prosecutorial official may request the court to  
138 designate the proceeding as a serious sexual offender prosecution.

139 (c) If a [juvenile prosecutor] prosecutorial official requests that a  
140 proceeding be designated a serious sexual offender prosecution, the  
141 court shall hold a hearing not later than thirty days after the filing of  
142 such request unless good cause is shown by the [juvenile prosecutor]

143 prosecutorial official or by the child as to why the hearing should not  
144 be held within such period. If good cause is shown, the hearing shall  
145 be held not later than ninety days after the filing of such request. The  
146 court shall decide whether to designate the proceeding as a serious  
147 sexual offender prosecution not later than thirty days after the  
148 completion of such hearing. The court shall grant the request to  
149 designate the proceeding as a serious sexual offender prosecution if  
150 the [juvenile prosecutor] prosecutorial official shows by a  
151 preponderance of the evidence that such designation will serve the  
152 public safety. The decision to designate the proceeding as a serious  
153 sexual offender prosecution shall not be a final judgment for purposes  
154 of appeal.

155 Sec. 7. Subsection (e) of section 46b-133e of the general statutes is  
156 repealed and the following is substituted in lieu thereof (*Effective July*  
157 *1, 2009*):

158 (e) If the court denies the motion for suspension of the delinquency  
159 proceedings, the [juvenile prosecutor] prosecutorial official may  
160 proceed with the delinquency proceedings. Any order of the court  
161 granting or denying a motion for suspension of the delinquency  
162 proceedings shall not be deemed a final order for purposes of appeal.

163 Sec. 8. Subsection (g) of section 46b-133e of the general statutes is  
164 repealed and the following is substituted in lieu thereof (*Effective July*  
165 *1, 2009*):

166 (g) If the court, on motion of the child or on its own motion, finds  
167 that the child has satisfactorily completed the school violence  
168 prevention program and has complied with all other conditions of  
169 suspension, and one year has elapsed since the child was placed in  
170 such program, it may dismiss the charge for which the delinquency  
171 proceedings had been suspended. If the court denies the motion and  
172 terminates the suspension of the delinquency proceedings, the  
173 [juvenile prosecutor] prosecutorial official may proceed with such  
174 proceedings.

175 Sec. 9. Subsection (a) of section 51-285 of the general statutes is  
176 repealed and the following is substituted in lieu thereof (*Effective July*  
177 *1, 2009*):

178 (a) The Chief State's Attorney may appoint special assistant state's  
179 attorneys, special deputy assistant state's attorneys [, special juvenile  
180 prosecutors] and special inspectors on a contractual basis for a  
181 temporary period of time.

182 Sec. 10. Section 51-286f of the general statutes is repealed and the  
183 following is substituted in lieu thereof (*Effective July 1, 2009*):

184 The prosecuting official in a criminal proceeding shall request on  
185 the record that a transcript be prepared of any sentencing hearing at  
186 which a defendant is sentenced to a definite, nonsuspended sentence  
187 of more than two years imprisonment. [and shall cause a copy of such  
188 transcript to be delivered] The Chief Court Administrator shall  
189 provide, in a format prescribed by the Chief Court Administrator, any  
190 such transcript to the Board of Pardons and Paroles.

191 Sec. 11. Subsection (d) of section 54-142s of the general statutes is  
192 repealed and the following is substituted in lieu thereof (*Effective from*  
193 *passage*):

194 (d) Such information technology system shall include a central,  
195 integrated electronic repository of criminal justice records and  
196 documents that provides:

197 (1) Access to all state and local police reports, presentence  
198 investigations and reports, psychological and medical reports, criminal  
199 records, incarceration and parole records, and court records and  
200 transcripts, whether such records and documents normally exist in  
201 electronic or hard copy form, except that access to state and local police  
202 reports and witness statements by the Division of Public Defender  
203 Services shall be barred unless authorized by a prosecutorial official;  
204 and

205 (2) Access to scanning and processing facilities to ensure that such  
206 records and documents are integrated into the system and updated  
207 immediately.

208 Sec. 12. Section 53a-172 of the general statutes is repealed and the  
209 following is substituted in lieu thereof (*Effective October 1, 2009*):

210 (a) A person is guilty of failure to appear in the first degree when (1)  
211 while charged with the commission of a felony and while out on bail  
212 or released under other procedure of law, [he] such person wilfully  
213 fails to appear when legally called according to the terms of [his] such  
214 person's bail bond or promise to appear, or (2) while on probation for  
215 conviction of a felony, [he] such person wilfully fails to appear when  
216 legally called for [a violation of probation hearing] any court hearing  
217 relating to a violation of such probation.

218 (b) Failure to appear in the first degree is a class D felony.

219 Sec. 13. Section 53a-173 of the general statutes is repealed and the  
220 following is substituted in lieu thereof (*Effective October 1, 2009*):

221 (a) A person is guilty of failure to appear in the second degree when  
222 (1) while charged with the commission of a misdemeanor or a motor  
223 vehicle violation for which a sentence to a term of imprisonment may  
224 be imposed and while out on bail or released under other procedure of  
225 law, [he] such person wilfully fails to appear when legally called  
226 according to the terms of [his] such person's bail bond or promise to  
227 appear, or (2) while on probation for conviction of a misdemeanor or  
228 motor vehicle violation, [he] such person wilfully fails to appear when  
229 legally called for [a violation of probation hearing] any court hearing  
230 relating to a violation of such probation.

231 (b) Failure to appear in the second degree is a class A misdemeanor.

232 Sec. 14. Subsection (b) of section 53a-70 of the general statutes is  
233 repealed and the following is substituted in lieu thereof (*Effective*  
234 *October 1, 2009*):



235 (b) (1) Except as provided in subdivision (2) of this subsection,  
236 sexual assault in the first degree is a class B felony for which two years  
237 of the sentence imposed may not be suspended or reduced by the  
238 court or, if the victim of the offense is under ten years of age, for which  
239 ten years of the sentence imposed may not be suspended or reduced  
240 by the court.

241 (2) Sexual assault in the first degree is a class A felony if the offense  
242 is a violation of subdivision (1) of subsection (a) of this section and the  
243 victim of the offense is under sixteen years of age or the offense is a  
244 violation of subdivision (2) of subsection (a) of this section. Any person  
245 found guilty under said subdivision (1) or (2) shall be sentenced to a  
246 term of imprisonment of which ten years of the sentence imposed may  
247 not be suspended or reduced by the court if the victim is under ten  
248 years of age or of which five years of the sentence imposed may not be  
249 suspended or reduced by the court if the victim is under sixteen years  
250 of age.

251 (3) Any person found guilty under this section shall be sentenced to  
252 a term of imprisonment and a period of special parole pursuant to  
253 subsection (b) of section 53a-28 which together constitute a sentence of  
254 at least ten years.

255 (4) Notwithstanding the provisions of this subsection concerning the  
256 imposition of a mandatory minimum sentence, the court may suspend  
257 the execution of such mandatory minimum sentence if at the time of  
258 the commission of the offense (A) such person was under eighteen  
259 years of age, or (B) such person's mental capacity was significantly  
260 impaired but not so impaired as to constitute a defense to prosecution.

261 Sec. 15. Section 51-237 of the general statutes is repealed and the  
262 following is substituted in lieu thereof (*Effective October 1, 2009*):

263 Each juror, duly chosen, drawn and summoned, who fails to appear  
264 shall [have committed an infraction] be subject to a civil penalty, the  
265 amount of which shall be established by the judges of the superior  
266 court, but the court may excuse [him] such juror from the payment

267 thereof. If a sufficient number of the jurors summoned do not appear,  
268 or if for any cause there is not a sufficient number of jurors to make up  
269 the panel, the court may order such number of persons who qualify for  
270 jury service under section 51-217 to be summoned as may be  
271 necessary, as talesmen, and any talesman so summoned who makes  
272 default of appearance without sufficient cause shall [have committed  
273 an infraction] be subject to a civil penalty, the amount of which shall be  
274 established by the judges of the superior court. The provision of this  
275 section shall be enforced by the Attorney General within available  
276 appropriations.

277 Sec. 16. Section 53a-137 of the general statutes is repealed and the  
278 following is substituted in lieu thereof (*Effective October 1, 2009*):

279 The following definitions are applicable to this part:

280 (1) "Written instrument" means any instrument or article containing  
281 written or printed matter or the equivalent thereof, used for the  
282 purpose of reciting, embodying, conveying or recording information  
283 or constituting a symbol or evidence of value, right, privilege or  
284 identification, which is capable of being used to the advantage or  
285 disadvantage of some person.

286 (2) "Complete written instrument" means [one] a written instrument  
287 which purports to be a genuine written instrument fully drawn with  
288 respect to every essential feature thereof. An endorsement, attestation,  
289 acknowledgment or other similar signature or statement is deemed  
290 both a complete written instrument in itself and a part of the main  
291 instrument in which it is contained or to which it attaches.

292 (3) "Incomplete written instrument" means [one] a written  
293 instrument which contains some matter by way of content or  
294 authentication but which requires additional matter in order to render  
295 it a complete written instrument.

296 (4) A person "falsely makes" a written instrument when [he] (A)  
297 such person makes or draws a complete written instrument in its

entirety, or an incomplete written instrument, which purports to be an authentic creation of its ostensible maker or drawer, but which is not such either because the ostensible maker or drawer is fictitious or because, if real, [he] the ostensible maker or drawer did not authorize the making or drawing thereof, or (B) such person signs his or her own name to a written instrument, thereby falsely and fraudulently representing that he or she has authority to sign in such capacity.

(5) A person "falsely completes" a written instrument when (A) such person, by adding, inserting or changing matter, [he] transforms an incomplete written instrument into a complete [one] written instrument, without the authority of [anyone] any person entitled to grant it, so that such complete written instrument appears or purports to be in all respects an authentic creation of or fully authorized by its ostensible maker or drawer, or (B) such person signs his or her own name to a written instrument, thereby falsely and fraudulently representing that he or she has authority to sign in such capacity.

(6) A person "falsely alters" a written instrument when (A) such person, without the authority of [anyone] any person entitled to grant it, [he] changes a written instrument, whether it be in complete or incomplete form, by means of erasure, obliteration, deletion, insertion of new matter [,] or transposition of matter [,] or in any other manner, so that such instrument in its thus altered form appears or purports to be in all respects an authentic creation of or fully authorized by its ostensible maker or drawer, or (B) such person signs his or her own name to a written instrument, thereby falsely and fraudulently representing that he or she has authority to sign in such capacity.

(7) "Forged instrument" means a written instrument which has been falsely made, completed or altered.

Sec. 17. Subsection (b) of section 54-76l of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

(b) The records of any such youth, or any part thereof, may be

disclosed to and between individuals and agencies, and employees of such agencies, providing services directly to the youth, including law enforcement officials, state and federal prosecutorial officials, school officials in accordance with section 10-233h, court officials, the Division of Criminal Justice, the Court Support Services Division and an advocate appointed pursuant to section 54-221 for a victim of a crime committed by the youth. Such records shall also be available to the attorney representing the youth, in any proceedings in which such records are relevant, to the parents or guardian of such youth, until such time as the youth reaches the age of majority or is emancipated, and to the youth upon his or her emancipation or attainment of the age of majority, provided proof of the identity of such youth is submitted in accordance with guidelines prescribed by the Chief Court Administrator. Such records shall also be available to members and employees of the Board of Pardons and Paroles and employees of the Department of Correction who, in the performance of their duties, require access to such records, provided the subject of the record has been adjudged a youthful offender and sentenced to a term of imprisonment or been convicted of a crime in the regular criminal docket of the Superior Court, and such records are relevant to the performance of a risk and needs assessment of such person while such person is incarcerated, the determination of such person's suitability for release from incarceration or for a pardon, or the determination of the supervision and treatment needs of such person while on parole or other supervised release. Such records shall also be available to law enforcement officials and prosecutorial officials conducting legitimate criminal investigations. Such records disclosed pursuant to this subsection shall not be further disclosed.

Sec. 18. Subsection (m) of section 54-56d of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

(m) If at any time the court determines that there is not a substantial probability that the defendant will attain competency within the period of treatment allowed by this section, or if at the end of such

364 period the court finds that the defendant is still not competent, the  
365 court shall consider any recommendation made by the examiners  
366 pursuant to subsection (d) of this section and any opinion submitted  
367 by the treatment facility pursuant to subparagraph (C) of subsection (j)  
368 of this section regarding eligibility for, and the appropriateness of, civil  
369 commitment to a hospital for psychiatric disabilities and shall either  
370 release the defendant from custody or order the defendant placed in  
371 the custody of the Commissioner of Mental Health and Addiction  
372 Services, the Commissioner of Children and Families or the  
373 Commissioner of Developmental Services. If the court orders the  
374 defendant placed in the custody of the Commissioner of Children and  
375 Families or the Commissioner of Developmental Services, the  
376 commissioner given custody, or the commissioner's designee, shall  
377 then apply for civil commitment in accordance with sections 17a-75 to  
378 17a-83, inclusive, or 17a-270 to 17a-282, inclusive. If the court orders  
379 the defendant placed in the custody of the Commissioner of Mental  
380 Health and Addiction Services, the court may order the commissioner,  
381 or the commissioner's designee, to apply for civil commitment in  
382 accordance with sections 17a-495 to 17a-528, inclusive, or order the  
383 commissioner, or the commissioner's designee, to provide services to  
384 the defendant in a less restrictive setting, provided the examiners have  
385 determined in the written report filed pursuant to subsection (d) of this  
386 section or have testified pursuant to subsection (e) of this section that  
387 such services are available and appropriate. The court shall hear  
388 arguments as to whether the defendant should be released or should  
389 be placed in the custody of the Commissioner of Mental Health and  
390 Addiction Services, the Commissioner of Children and Families or the  
391 Commissioner of Developmental Services. If the court orders the  
392 release of a defendant charged with the commission of a crime that  
393 resulted in the death or serious physical injury, as defined in section  
394 53a-3, of another person, or with the violation of subdivision (2) of  
395 subsection (a) of section 53-21, subdivision (2) of subsection (a) of  
396 section 53a-60 or section 53a-70, as amended by this act, 53a-70b, 53a-  
397 71, 53a-72a or 53a-72b or orders the placement of such defendant in the  
398 custody of the Commissioner of Mental Health and Addiction

399 Services, the court may, on its own motion or on motion of the  
400 prosecuting authority, order, as a condition of such release or  
401 placement, periodic examinations of the defendant as to the  
402 defendant's competency. Such an examination shall be conducted in  
403 accordance with subsection (d) of this section. Upon receipt of the  
404 written report as provided in subsection (d) of this section, the court  
405 shall, upon the request of either party filed not later than thirty days  
406 after the court receives such report, conduct a hearing as provided in  
407 subsection (e) of this section. Such hearing shall be held not later than  
408 ninety days after the court receives such report. If the court finds that  
409 the defendant has attained competency, the defendant shall be  
410 returned to the custody of the Commissioner of Correction or released,  
411 if the defendant has met the conditions for release, and the court shall  
412 continue with the criminal proceedings. Periodic examinations ordered  
413 by the court under this subsection shall continue until the court finds  
414 that the defendant has attained competency or until the time within  
415 which the defendant may be prosecuted for the crime with which the  
416 defendant is charged, as provided in section 54-193 or 54-193a, has  
417 expired, whichever occurs first. The court shall dismiss, with or  
418 without prejudice, any charges for which a nolle prosequi is not  
419 entered when the time within which the defendant may be prosecuted  
420 for the crime with which the defendant is charged, as provided in  
421 section 54-193 or 54-193a, has expired. Notwithstanding the erasure  
422 provisions of section 54-142a, police and court records and records of  
423 any state's attorney pertaining to a charge which is nolle or dismissed  
424 without prejudice while the defendant is not competent shall not be  
425 erased until the time for the prosecution of the defendant expires  
426 under section 54-193 or 54-193a. A defendant who is not civilly  
427 committed as a result of an application made by the Commissioner of  
428 Mental Health and Addiction Services, the Commissioner of Children  
429 and Families or the Commissioner of Developmental Services pursuant  
430 to this section shall be released. A defendant who is civilly committed  
431 pursuant to such an application shall be treated in the same manner as  
432 any other civilly committed person.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2009</i>	New section
Sec. 2	<i>July 1, 2009</i>	46b-127(b)
Sec. 3	<i>July 1, 2009</i>	46b-133a
Sec. 4	<i>July 1, 2009</i>	46b-133b
Sec. 5	<i>July 1, 2009</i>	46b-133c(a) and (b)
Sec. 6	<i>July 1, 2009</i>	46b-133d(b) and (c)
Sec. 7	<i>July 1, 2009</i>	46b-133e(e)
Sec. 8	<i>July 1, 2009</i>	46b-133e(g)
Sec. 9	<i>July 1, 2009</i>	51-285(a)
Sec. 10	<i>July 1, 2009</i>	51-286f
Sec. 11	<i>from passage</i>	54-142s(d)
Sec. 12	<i>October 1, 2009</i>	53a-172
Sec. 13	<i>October 1, 2009</i>	53a-173
Sec. 14	<i>October 1, 2009</i>	53a-70(b)
Sec. 15	<i>October 1, 2009</i>	51-237
Sec. 16	<i>October 1, 2009</i>	53a-137
Sec. 17	<i>October 1, 2009</i>	54-76l(b)
Sec. 18	<i>October 1, 2009</i>	54-56d(m)

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

## **OFA Fiscal Note**

### **State Impact:**

<b>Agency Affected</b>	<b>Fund-Effect</b>	<b>FY 10 \$</b>	<b>FY 11 \$</b>
Various State Agencies	GF - See Below	See Below	See Below

Note: GF=General Fund

### **Municipal Impact:** None

### **Explanation**

**Sections 1 - 9** require the Criminal Justice Commission, within available appropriations, to: (1) appoint any prosecutors assigned to handle juvenile matters on or after the July 1, 2009, effective date; and (2) consider appointed any prosecutors assigned to handle juvenile matters who are currently employed by the Division of Criminal Justice. This change is anticipated to accelerate the advancement of juvenile prosecutors in accordance with the collective bargaining agreement (through FY 10) between the Division of Criminal Justice and the Connecticut Association of Prosecutors.<sup>1</sup>

The FY 10 potential cost to increase the salaries of nine existing staff members under the bill is estimated to be \$47,000. This approximate cost would continue into the future until these incumbent employees have reached the salary limits of their positions.

The cost of this provision as it relates to future juvenile prosecutors is uncertain, pending subsequent collective bargaining agreements for

<sup>1</sup> Juvenile prosecutors are unable to advance in accordance with Article 16, Section 4 a (1) of the collective bargaining agreement because it requires approval by the Criminal Justice Commission. (This provision of the collective bargaining agreement permits prosecutors, once they have at least two years' satisfactory service, to advance from salary step #2 directly to salary step #5.)



FY 11 and beyond, and the number of juvenile attorneys appointed. If future collective bargaining contracts retain the provision that allows for accelerated advancement, then juvenile attorneys appointed on or after the effective date of the bill would be eligible for a salary increase of approximately \$8,000 in the third year of employment. One or two juvenile attorneys are typically hired in any given year. This trend is anticipated to continue into the future except for the year (FY 10) in which the age of juveniles is scheduled to be raised; as many as 15 additional juvenile prosecutors could be added that year. The out year (FY 13) potential cost associated with this group is estimated to be \$100,000.

Since the bill requires the agency to implement this provision within available appropriations, passage of the bill would require the agency to either: (1) reallocate existing funding for this purpose from another program; (2) incur additional costs; or (3) delay or not implement this program due to lack of funding.

The Criminal Justice Commission may incur costs to process additional appointments under the bill. Any such cost is anticipated to be less than \$500 annually.

**Section 10** shifts responsibility for providing copies of transcripts from the Division of Criminal Justice to the Judicial Department. The annual cost to provide these copies prospectively is approximately \$50,000 each year.<sup>2</sup> To the extent that copies of transcripts are also required for current inmates who will become eligible for parole at some point in the future, an additional cost estimated to be less than \$150,000 will be incurred over the next several years.

**Sections 11 - 14** make clarifying and minor changes that have no fiscal impact.

**Section 15** permits the court to deviate from mandatory minimum

---

<sup>2</sup> Calculated as follows: 2,300 sentenced to 2 years or more each year \* 25 pages per transcript \* 75 cents per page (court reporter fee per CGS 53-65(c)).

sentences in certain instances, which could result in state savings related to incarceration.

**Section 16** makes a change to the sequestering of certain witnesses which has no fiscal impact.

**Section 17** makes it a civil penalty, the amount of which is to be determined by the Judicial Department in accordance with the bill, for any person to fail to appear for jury duty. Each year approximately 26,000 people do not respond to the summons to appear for jury service. In accordance with the bill, the Office of the Attorney General (OAG) must, within available appropriations, bring such civil actions before the Judicial Department. The OAG could incur significant costs annually to undertake this duty; the potential revenue gain is uncertain, pending determination of the fine amount and the success of enforcement actions. Current law provides that failure to appear is an infraction; no revenues are collected pursuant to this provision.

Since the bill requires the agency to implement this provision within available appropriations, passage of the bill would require the OAG to either: (1) reallocate existing funding for this purpose from another program; (2) incur additional costs; or (3) delay or not implement this program due to lack of funding.

**Section 18** expands the definition of forgery to include signing of a written instrument fraudulently representing that a person had the authority to sign in the capacity that s/he did.<sup>3</sup> To the extent that offenders are subject to incarceration or probation supervision in the community as a result of this provision, a potential cost to criminal justice agencies exists. On average, it costs the state \$3,736 to supervise an offender on probation in the community as compared to \$44,165 to incarcerate the offender.

---

<sup>3</sup> Two cases, *State v. Raffa* and *State v. Robert Kuchta*, have shown that the definition of forgery does not include public officials who “signed off” on official building inspection reports when they did not have authority to do so.

Forgery Convictions			
			2008
53a-138	FORGERY 1	Class C Felony	44
53a-139	FORGERY 2	Class D Felony	489
53a-140	FORGERY 3	Class B Misdemeanor	273
			806

**Section 19** makes Youthful Offender records available to law enforcement and prosecutorial officials conducting criminal investigations, which has no fiscal impact.

House Amendment "A" expands the crimes for which the court may order periodic examinations of certain defendant's competency, which has no fiscal impact. The Department of Mental Health and Addiction Services (DMHAS) conducts these exams with existing personnel.

### ***The Out Years***

The annualized ongoing fiscal impacts identified above would continue into the future subject to inflation.

---

**OLR Bill Analysis****sHB 6664 (as amended by House "A")\******AN ACT CONCERNING REVISIONS TO VARIOUS STATUTES  
CONCERNING THE CRIMINAL JUSTICE SYSTEM.*****SUMMARY:**

This bill:

1. allows a court to suspend the mandatory minimum sentence for first-degree sexual assault if at the time of the offense, the offender was under age 18 or his or her mental capacity was significantly impaired;
2. modifies the penalty for jurors who fail to respond to a jury summons;
3. provides that juvenile prosecutors employed by the Division of Criminal Justice on July 1, 2009, are within available appropriations, considered appointed by the Criminal Justice Commission with the powers and duties of assistant state's attorneys;
4. requires the court, instead of the prosecutor, to provide a transcript of certain sentencing hearings to the Board of Pardons and Paroles;
5. limits access to state and local police reports and witness statements by the Division of Public Defender Services unless authorized by a prosecutorial official;
6. expands the circumstances under which a person on probation is guilty of failure to appear;

7. expands the crime of forgery to punish someone who falsely makes, completes, or alters a written instrument by signing his or her own name to it to falsely and fraudulently represent that he or she has authority to sign the document;
8. makes confidential youthful offender records available to law enforcement and prosecutorial officials conducting legitimate criminal investigations; and
9. allows courts to set conditions for releasing defendants who are not competent to stand trial for certain specified crimes.

\*House Amendment "A" eliminates the original bill's provisions lowering the maximum possible penalty for first-degree sexual assault against victims under age 10 and sequestering certain adult witnesses. It adds the provision on competency to stand trial.

EFFECTIVE DATE: October 1, 2009 except the provisions concerning juvenile prosecutors and provisions of sentencing transcripts, which are effective July 1, 2009, and the provision limiting law enforcement access to certain information held by the Division of Public Defender Services, which is effective on passage.

### **§§ 1-9 — JUVENILE PROSECUTORS**

The bill provides that, within available appropriations, juvenile prosecutors employed by the Division of Criminal Justice on July 1, 2009 (1) are deemed to have been appointed by the Criminal Justice Commission and (2) have and exercise all the powers and perform all the duties of an assistant state's attorney. It also provides that such prosecutors may act in any judicial district and in connection with any matter regardless of the judicial district where the offense took place, and may be assigned to act in any judicial district at any time on designation by the chief state's attorney. The bill makes numerous conforming changes.

The bill also provides that beginning July 1, 2009, any "prosecutorial official" assigned to handle juvenile matters in the criminal session of

the Superior Court will have been appointed by the Criminal Justice Commission.

Apparently the term “prosecutorial official” refers to the chief state’s attorney, each deputy chief state’s attorney, and each state’s attorney, assistant state’s attorney, and deputy assistant state’s attorney (CGS §§ 51-278a & 51-287a).

#### **§ 10 — SENTENCING TRANSCRIPTS**

By law, prosecutors must request transcripts of certain sentencing hearings for delivery to the Board of Pardons and Paroles. The bill requires the prosecutor’s request to be on the record and makes the court, instead of the prosecutor, responsible for delivering the transcript to the board. The affected sentencing hearings are those at which a defendant is sentenced to a definite, non-suspended sentence of more than two years’ imprisonment.

#### **§ 11 — ACCESS TO CERTAIN INFORMATION**

Current law gives state and local criminal justice agencies access to all state and local police reports, presentence investigations and reports, psychological and medical reports, criminal records, incarceration and parole records, and court records and transcripts in the statewide criminal justice information technology system whether such records and documents normally exist in electronic or hard copy forms. The bill prohibits access to state and local police reports and witness statements by the Division of Public Defender Services unless authorized by a prosecutorial official.

#### **§§ 12-13 — FAILURE TO APPEAR**

The bill expands the circumstances under which a person on probation for a felony conviction or a misdemeanor or motor vehicle violation is guilty of failure to appear. Under current law, the person is guilty if he or she misses a legally called probation violation hearing. Under the bill, the person is guilty if he or she misses any legally called court hearing related to a probation violation.

Failure to appear at a hearing on a felony violation is a class D felony punishable by up to five years in prison, a \$5,000 fine or both. Failure to appear for a hearing on a misdemeanor or motor vehicle violation is a class A misdemeanor punishable by up to one year in prison, a fine of up to \$2,000, or both.

#### **§ 14 — SEXUAL ASSAULT**

The bill allows the court to suspend the mandatory minimum sentence for first-degree sexual assault if, at the time of the offense, the offender was under age 18 or his or her mental capacity was significantly impaired. By law, the mandatory minimum sentence is two years unless the crime involves sexual intercourse with a child under age 16. If the child is under age 16, the mandatory minimum is five years and 10 years if the child is under age 10.

#### **§ 15 — FAILURE TO APPEAR FOR JURY DUTY**

The bill subjects jurors who fail to appear for jury duty to a civil penalty in an amount that the Superior Court judges must establish. Under current law, the jurors are guilty of an infraction. The bill requires the attorney general, within available appropriations, to enforce the provision.

#### **§ 16 — FORGERY**

The bill expands the crime of forgery to punish someone who falsely makes, completes, or alters a written instrument by signing his or her own name to it to falsely and fraudulently represent that he or she has authority to sign the document.

By law, a person commits forgery by (1) falsely making, completing, or altering a written instrument with intent to defraud, deceive, or injure someone or (2) possessing a forged written instrument. The penalty ranges from a class B misdemeanor to a class C felony depending on the type of document being forged.

#### **§ 17 — YOUTHFUL OFFENDER RECORDS**

The bill makes confidential youthful offender records available to

law enforcement and prosecutorial officials conducting legitimate criminal investigations. By law, records of youthful offenders are confidential unless they involve certain crimes. Current law allows disclosure of confidential records:

1. between agencies and individuals directly providing services to the youth, including law enforcement, state and federal prosecutors, school and court officials, the Division of Criminal Justice, the Court Support Services Division, and a crime victim advocate;
2. to the youth and the youth's parents or guardian until the youth reaches age 18 or is emancipated;
3. to the youth's attorney if they are relevant to a proceeding; and
4. to Board of Pardons and Paroles and correction employees who need them to perform their duties when (a) the offender is adjudged a youthful offender and sentenced to prison or convicted of a crime on the regular superior court docket and (b) the records are relevant to a risk and needs assessment during incarceration or determining suitability for release or a pardon or supervision and treatment needs on parole or other release.

By law, records disclosed under these provisions cannot be further disclosed.

### **§ 501 — COMPETENCY TO STAND TRIAL**

By law, courts may order periodic competency examinations of defendants found incompetent to stand trial and unlikely to become competent within the period in which they can lawfully be detained (18 months or the maximum prison sentence they could serve, whichever is shorter) if they are charged with a crime that resulted in death or serious physical injury and ordered (1) released or (2) placed in the Department of Mental Health and Addiction Services commissioner's custody. The bill broadens the crimes covered by this



authority to include:

1. risk of injury to a child consisting of having contact with the intimate parts of a child under age 16 or subjecting the child to contact with the offender's intimate body parts in a sexual and indecent manner likely to impair the child's health or morals;
2. second-degree assault by using a deadly weapon or dangerous instrument, other than a gun, to intentionally cause physical injury to another;
3. first-, second-, or third-degree sexual assault;
4. sexual assault in a spousal or cohabitating relationship; or
5. third-degree sexual assault with a firearm.

## **BACKGROUND**

### ***Juvenile Prosecutors***

Under existing law, juvenile prosecutors are appointed by the state's attorney for the judicial district where the prosecutor serves. But most other prosecutors are appointed by the Criminal Justice Commission, a constitutionally created Executive Branch agency. Juvenile prosecutors can only handle cases on the juvenile docket; assistant state's attorneys can handle cases on both the juvenile and adult dockets.

## **COMMITTEE ACTION**

### Judiciary Committee

Joint Favorable Substitute

Yea 42      Nay 0      (04/03/2009)

### Appropriations Committee

Joint Favorable Substitute

Yea 37      Nay 13      (05/05/2009)